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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,715	10/11/2001	Robert E. Haines	10007587-1	2479

7590 11/21/2006

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EXAMINER

ENGLAND, DAVID E

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 11/21/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/976,715
Filing Date: October 11, 2001
Appellant(s): HAINES, ROBERT E.

MAILED

NOV 21 2006

Technology Center 2100

David R. Risley Reg. No. 39,345
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/22/2006 appealing from the Office action mailed 06/17/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6779004	Zintel	08-2004
6754829	Butt et al.	06-2004
6804718	Pang et al.	10-2004
5960214	Sharpe Jr., et al.	09-1999

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6674764 Garland et al. 01-2004

6405204 Baker et al. 06-2002

www.webopedia.com/TERM/n/network.htm. Last modified date: September 1, 1996.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claims 1 – 34 are presented for examination.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “device discovery plug in to poll peripheral devices on the network to identify their addresses” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

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drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3, 4, 7, 8, 10, 11, 14, 15, 17, 20, 21, 23, 24, 27, 28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zintel (6779004) (hereinafter Zintel) in view of Butt et al. (6754829) (hereinafter Butt).

Referencing claim 1, as closely interpreted by the Examiner, Zintel teaches a method of device discovery comprising:

downloading a device discovery plug in, (e.g. col. 2, lines 29 – 56);

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activating the device discovery plug in to discover peripheral devices on the network with the device discovery plug in; (e.g. col. 2, lines 29 – 56); and transmitting data describing peripheral devices discovered by the device discovery plug in, (e.g. col. 2, lines 29 – 56), but does not specifically teach downloading a plug in via a network using a network browser. Butt teaches downloading a plug in via a network using a network browser, (e.g. col. 8, line 59 – col. 9, line 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Butt with Zintel because utilizing a browser for a user friendly environment could enable a user to find the specific plug-ins that are needed.

Referencing claim 3, as closely interpreted by the Examiner, Zintel teaches activating the device discovery plug in comprises activating the device discovery plug in to collect data describing hard copy output engines, (e.g. col. 45, lines 23 – 44).

Referencing claim 4, as closely interpreted by the Examiner, Zintel teaches activating the device discovery plug in comprises activating the device discovery plug in to collect data describing hard copy output engines selected from a group consisting of: facsimile machines, photocopiers and printers, (e.g. col. 45, lines 23 – 44).

Referencing claim 7, as closely interpreted by the Examiner, Zintel teaches downloading and activating includes starting a web browser, directing the web browser to a web site associated with a vendor, downloading the device discovery plug in from the vendor web site with the

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browser and activating the device discovery plug in with the web browser, (e.g. col. 51, lines 12 – 35).

Referencing claim 30, as closely interpreted by the Examiner, Zintel teaches transmitting data describing peripheral devices comprises transmitting the data to a vendor website, (e.g., col. 8, line 54 – col. 9, line 5).

Referencing claim 31, as closely interpreted by the Examiner, Zintel teaches storing the data describing the peripheral devices in association with the vendor website, (e.g., col. 51, lines 12 – 35, “*drivers*”).

Claims 8, 10, 11, 14, 15, 17, 20, 21, 23, 24, 27 and 28 are rejected for similar reasons as stated above.

Claims 2, 9, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zintel and Butt as applied to claims 1, 8, 15 and 21 above, and in further view of Pang et al. (6804718) (hereinafter Pang).

Referencing claim 2, Zintel does not specifically teach downloading comprises downloading the device discovery plug in across a firewall from a web site associated with a vendor. Pang teaches downloading comprises downloading the device discovery plug in across a firewall from a web site associated with a vendor, (e.g. col. 12, lines 47 – 51). It would have been obvious to one of

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ordinary skill in the art at the time the invention was made to combine Pang with Zintel because utilizing a firewall adds security to a system and filters out users and/or data that is not permitted into the network.

Claims 9, 18 and 22 are rejected for similar reasons as stated above.

Claims 5, 6, 12, 13, 16, 19, 25, 26 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zintel and Butt as applied to claims 1, 8, 15 and 21 above, and in further view of Sharpe, Jr. et al. (5960214) (hereinafter Sharpe).

Referencing claim 5, Zintel does not specifically teach activating the device discovery plug in comprises activating the device discovery plug in to collect data chosen from a group consisting of: model and serial number information and included options from an embedded web server contained in the discovered peripheral devices.

Sharpe teaches activating the device discovery plug in comprises activating the device discovery plug in to collect data chosen from a group consisting of: model and serial number information and included options from an embedded web server contained in the discovered peripheral devices, (e.g. col. 15, lines 10 – 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Sharpe with Zintel because organizing a plug in by a specific parameter when searching for a specific plug in, it would make the search more efficient for the user to find the specific plug in if the plug ins were organized in specific groups, (e.g. serial numbers, and models).

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Referencing claim 6, as closely interpreted by the Examiner, Zintel does not specifically teach organizing collected data into logical groups. Sharpe teaches organizing collected data into suitable groups, (e.g. col. 6, lines 17 - 40, "*database*"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Sharpe with Zintel because of similar reasons stated above.

As per claim 32, as closely interpreted by the Examiner, Zintel and Butt do not specifically teach organizing collected data into suitable groups comprises organizing the collected data according to an internal business structure associated with the network. Sharpe teaches the act of organizing collected data into suitable groups comprises organizing the collected data according to an internal business structure associated with the network through the utilization of group assigned names, (e.g., col. 20, lines 23 – 43). It would be obvious to one of ordinary skill in the art at the time the invention was made to combine Sharpe with the combine system of Zintel and Butt and because it is well know in the prior art of record that organizing information in a database by a specific field can aid in the viewing groups of information by topic or reference as opposed to searching through numerous files with no origination.

Claims 12, 13, 16, 19, 25 and 26 are rejected for similar reasons as stated above.

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Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zintel and Butt as applied to claim 1 above, and in further view of Garland et al. (6674764) (hereinafter Garland).

As to claim 29, as closely interpreted by the Examiner, Zintel and Butt do not teach activating the device discovery plug in comprises activating the device discovery plug in to poll peripheral devices on the network to identify their addresses. Garland teaches activating the device discovery plug in comprises activating the device discovery plug in to poll peripheral devices on the network to identify their addresses, (e.g. col. 4, lines 15 – 33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Garland with the combine system of Zintel and Butt because polling and using a database aids in keeping an effective, accurate and current tracking of customer DNs versus telemetry devices and device type and capability.

Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zintel, Butt and Sharpe as applied to claims 1 and 6 above, and in further view of Baker et al. (6405204) (hereinafter Baker).

As to claim 33, as closely interpreted by the Examiner, Zintel, Butt and Sharpe do not specifically teach identifying a purchase authorizer for each group. Baker teaches identifying specific parameters of groups which can be utilized to identify purchase authorizer for each group, (e.g., col. 4, lines 14 – 49). It would have been obvious to one of ordinary skill in the art

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at the time the invention was made to combine Baker with the combine system of Zintel, Butt and Sharpe because of other similar properties that are found in databases discussed above, databases having the ability to differentiate between other information using fields that distinguish them.

Claim 34 is rejected for similar reasons as stated above.

Response to Arguments

Applicant's arguments with respect to claims 1 – 34 have been considered but are moot in view of the new ground(s) of rejection from limitations, “downloading a device discovery plug in via a network using a network browser,” “activating the device discovery plug in to discover peripheral devices on the network with the device discovery plug in.” and newly added claims 28 – 34.

(10) Response to Argument

In the Arguments, Appellant argues in substance that Zintel and Butt say nothing about discovering devices on a network.

The Appellant states that Zintel does not teach "downloading a device discovery plug in" and that Zintel's system has nothing to do with "discovering devices".

As to the first argument, Appellant admits that “Zintel teaches downloading the adapter when a peripheral device first connects to a host in a plug-in-play arrangement.”, (page 12 of

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arguments). The Appellant goes on to state that, "The term network is a well established term in the art and actually describes a network arrangement, not a direct connect arrangement."

Consistent with the definition of "network" well established in the art at the time the invention was made, the Examiner notes that the definition of the term network is, "A group of **two** or more computer system linked together," as cited from Webopedia definition circa 1996.

Therefore the Examiner's interpretation of a network is consistent with the well known meaning in the art. In another section of Zintel, it is stated that, "*The simple discovery additionally provides an extensible markup language (XML) format device description, which is downloaded to clients that access the device to allow activation of device functionality from the client.*" (col. 48, lines 17 – 21). Furthermore, Butt is more specifically utilized to teach downloading a plug in via a network using a network browser, which is stated in the above rejection. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

As to the second argument, Examiner would like to draw the Appellant attention to Zintel, column 3 supra, which states,

"...the host operating software detects that a new peripheral device has been connected; and automatically selects or prompts the user to select **and then installs an appropriate device driver** for the new peripheral device. The host operating software also automatically installs a

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peer networking-to-host/peripheral adapter, which exposes the peripheral to control from peer networking devices that are networked to the host and optionally permits control of peer networking devices from the peripheral."

It is abundantly clear that the user is prompted to install information about the peripheral device with is triggered by detecting said device.

Furthermore, if Appellant were to draw their attention to column 46, line 33 supra, it is stated that, "UPnP implements a peer discovery mechanism that users the Simple Service Discovery Protocol (SSDP) for discovery of devices on IP networks." Therefore it is also clear that Zintel teaches discovering devices on an IP network. When reviewing a reference the Appellant should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

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Zintel further teaches in column 47, lines 48 and 49, that, *"devices can be networked instead of being attached to a PC."* This further proves that Zintel in view of Butt can be interpreted in light of the Appellant's claim language.

Claims 8, 15 and 21 all follow similar argument by the Appellant as stated above and can be addressed in the same light as the responses that are stated above.

In the Arguments, Appellant states, "Zintel does not discuss discovery of devices or a discovery plug in, it logically follows that Zintel's system does not transmit data describing peripheral devices, "discovered by the device discovery plug-in"."

Examiner does not agree with Appellant's assumption of Zintel's teachings as proven above in the sections quoted in Zintel.

In the Arguments, Appellant states that neither reference teaches the claimed subject matter of claim 30 which recites transmitting data "describing peripheral devices" to a "vendor website".

As to the forth argument, Appellant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In the Arguments, Appellant states that Sharpe does not teach “activating the device discovery plug in to collect data chosen from a group consisting of: model and serial number information and included options from an embedded web server contained in the discovered peripheral devices.”

As to the fifth argument, the reference of Zintel, as discussed above, clearly teaches activating the device discovery plug in. Zintel also teaches a type of device ID known as a device model, column 14, lines 35 et seq.

Furthermore, Sharpe teaches the device ID to include the name of the device manufacturer, the model number of the device, and the serial number of the device, (e.g., col. 15, lines 9 – 16), which Appellant fails to see or recognize as they cite from Sharpe.

In the Arguments, Appellant states Garland does not teach or suggest activating a “device discovery plug in” to “poll peripheral devices on the network to identify their addresses”.

As to the sixth argument, Zintel teaches the act of polling as seen in Figure 10 and corresponding text, but does not explicitly teach the term polling. Therefore Garland has been introduced to show polling would be obvious to one of ordinary skill in the art at the time the invention was made, (e.g., col. 4, lines 15 – 47, “...polling performed by the network ...telemetry device(s) serial number, type, TCP/IP sub-addresses...The polling feature controller 155 polls the communication lines based on a polling rule or command.”).

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In the Arguments, Appellant states that Baker does not teach “identifying a purchase authorizer for each group” or “identifying a maintainer for each group” as are provided in claims 33 and 34, respectively.

As to the last argument, Appellant does not define what an “authorizer” or a “maintainer” is or could be in the claim language. Therefore leaving a broad interpretation of what these limitations could be. As stated in Baker there are proprietary product/ service hierarchy and product/ service **groups** for each **sector**, (e.g., col. 4, lines 14 – 50). Further stated in Baker, column 3, line 10 et seq., *“The invention provides index performance alerts by sector, or otherwise interpreted as groups, ... Users are able to define limits for the industry, sector, sub-sector, or group categories for alerts on price, volume, intraday range, current closing price relative to the intraday range...”* This could be interpreted as the User having the ability to be the authorizer and the maintainer since there is not claim language the would define or make distinct what an authorizer and maintainer are.

(11) Related Proceeding(s) Appendix

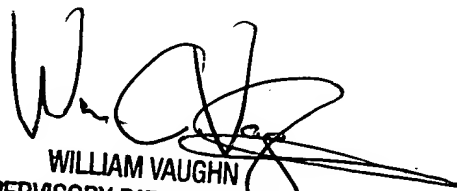
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DE

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